

ASSEMBLY BILL

No. 482

Introduced by Assembly Member Hancock

February 16, 2005

An act to amend Section 60640 of the Education Code, relating to pupil assessment.

LEGISLATIVE COUNSEL'S DIGEST

AB 482, as introduced, Hancock. Pupil assessment: English language learners.

Existing law, the Standardized Testing and Reporting (STAR) Program, requires each school district, charter school, and county office of education to administer to each of its pupils in grades 3 and 7 a designated achievement test and, until July 1, 2007, to each of its pupils in grades 2 to 11, inclusive, and after July 1, 2007, to each of its pupils in grades 3 to 11, inclusive, a standards-based achievement test.

Existing law authorizes, until July 1, 2007, a pupil of limited English proficiency who is enrolled in any of grades 2 to 11, inclusive, to take a second achievement test in his or her primary language at the option of the school district.

This bill would instead require school districts to administer an achievement test to pupils with limited English proficiency who are enrolled in any of grades 2 to 11, inclusive, in their primary language, and would require these tests to be administered only to limited-English-proficient pupils who either receive instruction in their primary language or have been enrolled in a school in the United States for less than 12 months.

Existing law requires, until July 1, 2007, a pupil of limited English proficiency who is enrolled in any of grades 2 to 11, inclusive, to take

a test in his or her primary language if a test is available and fewer than 12 months have elapsed after the pupil's initial enrollment in a California public or nonpublic school.

This bill would instead require a pupil of limited English proficiency who is enrolled in those grades and who either receives instruction in his or her primary language or has been enrolled in a school in the United States for less than 12 months to take a test in his or her primary language if the test is available.

Existing law, operative July 1, 2007, authorizes a pupil of limited English proficiency who is enrolled in any of grades 3 to 11, inclusive, to take a second achievement test in his or her primary language at the option of the school district.

This bill would instead require those pupils to take that second test, and would require these tests to be administered only to limited-English-proficient pupils who either receive instruction in their primary language or have been enrolled in a school in the United States for less than 12 months.

Existing law, operative July 1, 2007, requires a pupil identified as limited English proficient who is enrolled in any of grades 3 to 11, inclusive, and has not been reclassified as proficient in English, to take a test in his or her primary language if a test is available and if fewer than 12 months have elapsed after his or her initial enrollment in any public school in the state.

This bill would instead provide that a pupil with limited English proficiency who is enrolled in any of grades 3 to 11, inclusive, shall be required to take a test in his or her primary language if a test is available, and would require these tests to be administered only to limited-English-proficient pupils who either receive instruction in their primary language or have been enrolled in a school in the United States for less than 12 months.

This bill would make other technical, nonsubstantive changes.

By imposing additional duties on school districts, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 60640 of the Education Code, as
2 amended by Section 15 of Chapter 233 of the Statutes of 2004, is
3 amended to read:

4 60640. (a) There is hereby established the Standardized
5 Testing and Reporting Program, to be known as the STAR
6 Program.

7 (b) Commencing in the 2004–05 fiscal year and each fiscal
8 year thereafter, and from the funds available for that purpose,
9 each school district, charter school, and county office of
10 education shall administer to each of its pupils in grades 3 and 7
11 the achievement test designated by the ~~State Board of Education~~
12 *state board* pursuant to Section 60642 and shall administer to
13 each of its pupils in grades 2 to 11, inclusive, the
14 standards-based achievement test provided for in Section
15 60642.5. The state board shall establish a testing period to
16 provide that all schools administer these tests to pupils at
17 approximately the same time during the instructional year, except
18 as necessary to ensure test security and to meet the final filing
19 date.

20 (c) The publisher and the school district shall provide two
21 makeup days for the testing of previously absent pupils within
22 the testing period established by the state board in subdivision
23 (b).

24 (d) The governing board of the school district may administer
25 achievement tests in grades other than those required by
26 subdivision (b) as it deems appropriate.

27 (e) Pursuant to paragraph (17) of subsection (a) of Section
28 1412 of Title 20 of the United States Code, individuals with
29 exceptional needs, as defined in Section 56026, shall be included
30 in the testing requirement of subdivision (b) with appropriate
31 accommodations in administration, where necessary, and those
32 individuals with exceptional needs who are unable to participate

1 in the testing, even with accommodations, shall be given an
2 alternate assessment.

3 (f) (1) ~~At the option of the school district, pupils~~ *Pupils* with
4 limited English proficiency who are enrolled in any of grades 2
5 to 11, inclusive, ~~may take a second~~ *shall be administered an*
6 achievement test in their primary language. *These primary*
7 *language tests shall be administered only to*
8 *limited-English-proficient pupils who either receive instruction*
9 *in their primary language or have been enrolled in a school in*
10 *the United States for less than 12 months.* Primary language tests
11 administered pursuant to this subdivision and subdivision (g)
12 shall be subject to the requirements of subdivision (a) of Section
13 60641. These primary language tests shall produce individual
14 pupil scores that are valid and reliable.

15 (2) Notwithstanding any other law, the state board shall
16 designate for use, as part of this program, a single primary
17 language test in each language for which a test is available for
18 grades 2 to 11, inclusive, pursuant to the process used for
19 designation of the assessment chosen in the 1997–98 fiscal year,
20 as specified in Sections 60642 and 60643, as applicable.

21 (3) (A) The department shall use funds made available
22 pursuant to Title VI of the federal No Child Left Behind Act of
23 2001 and appropriated by the annual Budget Act for the purpose
24 of developing and adopting primary language assessments that
25 are aligned to the state academic content standards. Subject to the
26 availability of funds, primary language assessments shall be
27 developed and adopted for reading/language arts and
28 mathematics in the dominant primary language of
29 limited-English-proficient pupils. The dominant primary
30 language shall be determined by the count in the annual language
31 census of the primary language of each
32 limited-English-proficient pupil enrolled in the California public
33 schools.

34 (B) Once a dominant primary language assessment is available
35 for use for a specific grade level, it shall be administered in place
36 of the assessment designated pursuant to paragraph (1) for that
37 grade level.

38 (C) In choosing a contractor to develop a primary language
39 assessment ~~the State Board of Education~~ *state board* shall
40 consider the criteria for choosing a contractor or test publisher as

1 specified by Sections 60642 and 60643, and as specified by
2 Section 60642.5, as applicable.

3 (D) Subject to the availability of funds, the assessments shall
4 be developed in grade order starting with the lowest grade
5 subject to the STAR Program.

6 (E) If the state board contracts for the development of primary
7 language assessments or test items to augment an existing
8 assessment, the state shall retain ownership rights to the
9 assessment and the test items. With the approval of the state
10 board, the department may license the test for use in other states
11 subject to a compensation agreement approved by the
12 Department of Finance.

13 (F) On or before January 1, 2006, the department shall submit
14 to the Legislature a report on the development and
15 implementation of the initial primary language assessments and
16 recommendations on the development and implementation of
17 future assessments and funding requirements.

18 (g) A pupil of limited English proficiency who is enrolled in
19 any of grades 2 to 11, inclusive, *and who either receives*
20 *instruction in his or her primary language or has been enrolled*
21 *in a school in the United States for less than 12 months* shall be
22 required to take a test in his or her primary language if a test is
23 available, ~~and if fewer than 12 months have elapsed after his or~~
24 ~~her initial enrollment in any public or nonpublic school in the~~
25 ~~state.~~

26 (h) (1) ~~The Superintendent of Public Instruction~~ shall
27 apportion funds to school districts to enable school districts to
28 meet the requirements of subdivisions (b), (f), and (g).

29 (2) The state board shall annually establish the amount of
30 funding to be apportioned to school districts for each test
31 administered and shall annually establish the amount that each
32 publisher shall be paid for each test administered under the
33 agreements required pursuant to Section 60643. The amounts to
34 be paid to the publishers shall be determined by considering the
35 cost estimates submitted by each publisher each September and
36 the amount included in the annual Budget Act, and by making
37 allowance for the estimated costs to school districts for
38 compliance with the requirements of subdivisions (b), (f), and
39 (g).

(3) An adjustment to the amount of funding to be apportioned per test may not be valid without the approval of the Director of Finance. A request for approval of an adjustment to the amount of funding to be apportioned per test shall be submitted in writing to the Director of Finance and the chairpersons of the fiscal committees of both houses of the Legislature with accompanying material justifying the proposed adjustment. The Director of Finance is authorized to approve only those adjustments related to activities required by statute. The Director of Finance shall approve or disapprove the amount within 30 days of receipt of the request and shall notify the chairpersons of the fiscal committees of both houses of the Legislature of the decision.

(i) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation for the apportionments made pursuant to paragraph (1) of subdivision (h), and the payments made to the publishers under the contracts required pursuant to Section 60643 or subparagraph (C) of paragraph (1) of subdivision (a) of Section 60605 between the department and the contractor, are “General Fund revenues appropriated for school districts,” as defined in subdivision (c) of Section 41202, for the applicable fiscal year, and included within the “total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B,” as defined in subdivision (e) of Section 41202, for that fiscal year.

(j) As a condition to receiving an apportionment pursuant to subdivision (h), a school district shall report to the ~~superintendent~~ *Superintendent* all of the following:

(1) The number of pupils enrolled in the school district in grades 2 to 11, inclusive.

(2) The number of pupils to whom an achievement test was administered in grades 2 to 11, inclusive, in the school district.

(3) The number of pupils in paragraph (1) who were exempted from the test at the request of their parents or guardians.

(k) This section shall become inoperative on July 1, 2007, and as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 60640 of the Education Code, as added by Section 16 of Chapter 233 of the Statutes of 2004, is amended to read:

60640. (a) There is hereby established the Standardized Testing and Reporting Program, to be known as the STAR Program.

(b) Commencing in the 2007–08 fiscal year and each fiscal year thereafter, and from the funds available for that purpose, each school district, charter school, and county office of education shall administer to each of its pupils in grades 3 and 7 the achievement test designated by the ~~State Board of Education~~ *state board* pursuant to Section 60642 and shall administer to each of its pupils in grades 3 to 11, inclusive, the standards-based achievement test provided for in Section 60642.5. The state board shall establish a testing period to provide that all schools administer these tests to pupils at approximately the same time during the instructional year, except as necessary to ensure test security and to meet the final filing date.

(c) The publisher and the school district shall provide two makeup days for the testing of previously absent pupils within the testing period established by the state board in subdivision (b).

(d) The governing board of the school district may administer achievement tests in grades other than those required by subdivision (b) as it deems appropriate.

(e) Pursuant to paragraph (17) of subsection (a) of Section 1412 of Title 20 of the United States Code, individuals with exceptional needs, as defined in Section 56026, shall be included in the testing requirement of subdivision (b) with appropriate accommodations in administration, where necessary, and those individuals with exceptional needs who are unable to participate in the testing, even with accommodations, shall be given an alternate assessment.

(f) ~~At the option of the school district, a~~ *A* pupil with limited English proficiency who is enrolled in any of grades 3 to 11, inclusive, ~~may~~ *shall* take a second achievement test in his or her primary language. *These primary language tests shall be administered only to limited-English-proficient pupils who either receive instruction in their primary language or have been*

1 *enrolled in a school in the United States for less than 12 months.*
2 Primary language tests administered pursuant to this subdivision
3 and subdivision (g) shall be subject to the requirements of
4 subdivision (a) of Section 60641. These primary language tests
5 shall produce individual pupil scores that are valid and reliable.
6 Notwithstanding any other law, the state board shall designate for
7 use, as part of this program, a single primary language test in
8 each language for which a test is available for grades 3 to 11,
9 inclusive, pursuant to the process used for designation of the
10 assessment chosen in the 1997–98 fiscal year, as specified by
11 Sections 60642 and 60643, and as specified by Section 60642.5,
12 as applicable.

13 ~~(g) A pupil identified as limited English proficient pursuant to~~
14 ~~the administration of a test provided by Section 60810, with~~
15 *limited English proficiency* who is enrolled in any of grades 3 to
16 11, inclusive, ~~and has not been reclassified as proficient in~~
17 ~~English pursuant to reclassification procedures required to be~~
18 ~~developed by Section 313, shall be required to take a test in his~~
19 ~~or her primary language if a test is available and if fewer than 12~~
20 ~~months have elapsed after his or her initial enrollment in any~~
21 ~~public school in the state. These primary language tests shall be~~
22 *administered only to limited-English-proficient pupils who*
23 *either receive instruction in their primary language or have been*
24 *enrolled in a school in the United States for less than 12 months.*

25 ~~(h) (1) The Superintendent of Public Instruction shall~~
26 ~~apportion funds to school districts to enable school districts to~~
27 ~~meet the requirements of subdivision (b), the alternative~~
28 ~~assessment required by subdivision (e), and subdivisions (f) and~~
29 ~~(g).~~

30 (2) The state board shall annually establish the amount of
31 funding to be apportioned to school districts for each test
32 administered and shall annually establish the amount that each
33 publisher shall be paid for each test administered under the
34 agreements required pursuant to Section 60643. The amounts to
35 be paid to the publishers shall be determined by considering the
36 cost estimates submitted by each publisher each September and
37 the amount included in the annual Budget Act, and by making
38 allowance for the estimated costs to school districts for
39 compliance with the requirements of subdivision (b), the

1 alternative assessment required by subdivision (e), and
2 subdivisions (f) and (g).

3 (3) An adjustment to the amount of funding to be apportioned
4 per test may not be valid without the approval of the Director of
5 Finance. A request for approval of an adjustment to the amount
6 of funding to be apportioned per test shall be submitted in writing
7 to the Director of Finance and the chairpersons of the fiscal
8 committees of both houses of the Legislature with accompanying
9 material justifying the proposed adjustment. The Director of
10 Finance is authorized to approve only those adjustments related
11 to activities required by statute. The Director of Finance shall
12 approve or disapprove the amount within 30 days of receipt of
13 the request and shall notify the chairpersons of the fiscal
14 committees of both houses of the Legislature of the decision.

15 (i) For the purposes of making the computations required by
16 Section 8 of Article XVI of the California Constitution, the
17 appropriation for the apportionments made pursuant to paragraph
18 (1) of subdivision (h), and the payments made to the publishers
19 under the contracts required pursuant to Section 60643 or
20 subparagraph (C) of paragraph (1) of subdivision (a) of Section
21 60605 between the department and the contractor, are “General
22 Fund revenues appropriated for school districts,” as defined in
23 subdivision (c) of Section 41202, for the applicable fiscal year,
24 and included within the “total allocations to school districts and
25 community college districts from General Fund proceeds of taxes
26 appropriated pursuant to Article XIII B,” as defined in
27 subdivision (e) of Section 41202, for that fiscal year.

28 (j) As a condition to receiving an apportionment pursuant to
29 subdivision (h), a school district shall report to the ~~superintendent~~
30 *Superintendent* all of the following:

31 (1) The number of pupils enrolled in the school district in
32 grades 2 to 11, inclusive.

33 (2) The number of pupils to whom an achievement test was
34 administered in grades 2 to 11, inclusive, in the school district.

35 (3) The number of pupils in paragraph (1) who were exempted
36 from the test at the request of their parents or guardians.

37 (k) The ~~superintendent~~ *Superintendent* and the state board are
38 authorized and encouraged to assist postsecondary educational
39 institutions to use the California Standards Tests for academic
40 credit, or placement, and admissions processes, or both purposes.

1 ~~(l) The superintendent~~ *Superintendent* shall, with the approval
2 of the state board, annually release to the public at least 25
3 percent of test items from the standards-based achievement test
4 provided for in Section 60642.5 from the test administered in the
5 previous year.

6 (m) This section shall become operative July 1, 2007.

7 SEC. 3. If the Commission on State Mandates determines that
8 this act contains costs mandated by the state, reimbursement to
9 local agencies and school districts for those costs shall be made
10 pursuant to Part 7 (commencing with Section 17500) of Division
11 4 of Title 2 of the Government Code.